

# **EXHIBIT 7**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION**

STATE OF MISSISSIPPI;  
STATE OF ALABAMA;  
STATE OF ARKANSAS; COMMONWEALTH OF  
KENTUCKY; STATE OF  
LOUISIANA; STATE OF MISSOURI;  
and STATE OF MONTANA,

*Plaintiffs,*

v.

XAVIER BECERRA, in his official  
capacity as Secretary of Health and  
Human Services; THE UNITED  
STATES DEPARTMENT OF  
HEALTH AND HUMAN SERVICES;  
CHIQUITA BROOKS-LASURE, in her  
official capacity as Administrator of the  
Centers for Medicare and Medicaid  
Services; THE CENTERS FOR  
MEDICARE AND MEDICAID  
SERVICES; THE UNITED STATES  
OF AMERICA,

*Defendants.*

No. 1:22-cv-113-HSO-RPM

**DECLARATION OF MARCUS RAY**

I, Marcus Ray, declare as follows:

1. The facts set forth in this declaration are based on my personal knowledge, and if called as a witness, I could and would competently testify to the following matters under oath.
2. I am the President of the Kentucky State Conference of the National Association for the Advancement of Colored People ("Kentucky NAACP"), a proposed intervenor in the above-captioned matter. The Kentucky NAACP is a nonpartisan, nonprofit organization that is an affiliate of the NAACP.

3. I am authorized to provide this declaration on behalf of the Kentucky NAACP. I have held the position of president since being elected to the position in 2019. In performing my duties as president, I interact with Kentucky NAACP members, and regularly work with the NAACP units (branches, chapters, and committees) that are responsible for carrying out the mission of the organization. Before my presidency, I was a NAACP member, and have been a NAACP member for many decades.
4. The NAACP is the nation's oldest and largest civil rights organization, which was founded in 1909. We share the mission of the NAACP, which is to "achieve equity, political rights, and social inclusion by advancing policies and practices that expand human and civil rights, eliminate discrimination, and accelerate the well-being, education, and economic security of Black people and all persons of color."<sup>1</sup>
5. We currently have thousands of members throughout the state, with more than 30 active units across Kentucky. The Kentucky NAACP's membership consists largely of African Americans, and it aims to support all people of color and members of underrepresented and vulnerable populations, regardless of membership in the Kentucky NAACP.
6. Currently, we estimate that over 50% of our members are eligible for Medicare and most of them are Medicare beneficiaries.
7. We focus on implementing the mission of NAACP at the state and local level in Kentucky. We work on a variety of issues in furtherance of our mission, such as education, criminal justice reform, and health justice. The Kentucky NAACP has a Health Committee, which is led by our Health Chair.

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<sup>1</sup> NAACP, *Our Mission*, <https://naacp.org/about/mission-vision> (last visited May 10, 2023).

8. Our work on health matters is motivated and informed by the experiences of many of our members and other people of color in Kentucky who have had health justice issues, including lack of access to health care, racial stereotyping, and encounters with racism. Two of Kentucky NAACP's areas of focus are issues related to improving access to healthcare and emphasizing the importance of preventative care. Additionally, I serve on several healthcare-focused committees on behalf of Kentucky NAACP.
9. If Plaintiffs succeed in striking down the Center for Medicare & Medicaid Services ("CMS") 2021 final rule, the rule that adds an improvement activity entitled "create and implement an anti-racism plan" in the health equity subcategory ("anti-racism rule"), it will very likely cause negative effects on the Kentucky NAACP and our members.
10. First, the Kentucky NAACP has an interest in furthering quality health care for its members, as well as for Kentuckians of color generally. Quality preventive healthcare is especially valuable in facilitating better health outcomes and longevity. However, many of Kentucky NAACP's members lack access to quality preventative care. Members often explain that they cannot afford to access preventative care and do not go to the hospital until it is too late. Some of our members do not even go to the hospital at all because they cannot afford to pay the medical bills and do not want to burden their families with the financial stress. Thus, a large component of our health-related work involves annual health fairs organized by local Kentucky NAACP chapters. At our health fairs, medical professionals conduct check-ups and hospitals send out mobile laboratories for health testing. The health fairs are well attended by Kentucky NAACP members, as well as members of the general public.

11. The Kentucky NAACP recognizes that quality preventative care includes mental health.

So, the Kentucky NAACP recently partnered with Pathways, a behavioral healthcare provider, to support a mobile health clinic in our community. The mobile clinic started service around 10 counties out of Boyd county, a rural area of Kentucky that our members and Pathways determined was an underserved area. The mobile health clinic focuses on providing mental health services and contains an educational component to facilitate overcoming the stigma of seeking help for mental health.

12. The anti-racism rule would benefit many of our members, who are Medicare recipients, by encouraging doctors and health care providers to identify racial disparities, create a plan to prevent and address racism, and ensure services, including quality preventative care, are accessible and understandable for those seeking care.

13. Second, the Kentucky NAACP has an interest in addressing medical distrust in our community. Members have told me that they avoid medical treatment because of several reasons, including wariness of the medical system due to past negative experiences with the medical system, lack of knowledge over whether they are eligible for Medicare or Medicaid, difficulties with insurance coverage, or concerns over being able to pay the medical bills. I have heard from some Kentucky NAACP members that they do not seek medical care until they are forced to by their families because of debilitating pain. If our members understand that there is a commitment among at least some health care providers to understand and address issues of racial discrimination in health care and health disparities, it will likely build their confidence in the medical system. Providing an incentive to medical providers to create and implement anti-racism plans is a valuable step to build trust in the medical system.

14. On the other hand, an order from this Court condemning health equity measures like the anti-racism rule will likely exacerbate distrust and skepticism of medical providers throughout the state amongst Kentucky NAACP members and other Kentuckians of color. We think it is very important to work to change the view of our members and community of the medical system, so the generation after us understands how important and life-changing quality medical care can be. A successful challenge to the anti-racism rule by the Plaintiffs will likely create another barrier to achieving that goal.
15. Third, the Kentucky NAACP has an interest in preserving medical providers' current anti-racism efforts. Rescission of the anti-racism rule on the grounds that anti-racism is "bad medicine" will likely delegitimize and diminish anti-racism measures in healthcare. This could cause some healthcare providers to abandon anti-racism plans and other measures aimed at overcoming health disparities in order to avoid potential litigation. If healthcare providers abandon anti-racism efforts, the Kentucky NAACP may have to spend more resources on our health programming and education efforts.
16. Fourth, the Kentucky NAACP has a strong interest in reducing barriers to healthcare and advancing better access to healthcare. For example, the Kentucky NAACP believes it is important to provide insurance plans with more coverage and healthcare options to under-resourced communities, increase quality healthcare, and work to fix pollution and environmental quality problems that cause illness in our communities. One of the reasons why this is a priority for the Kentucky NAACP is because Kentuckians of color are disproportionately more likely to lack health insurance. These problems affect many Kentucky NAACP members. The adoption of anti-racism plans by health systems would

benefit many Kentucky NAACP members because anti-racism plans are designed to reduce barriers and increase access to healthcare.

17. The anti-racism rule supports the Kentucky NAACP's mission, programming efforts, and individual members. Rescission of the rule threatens harm to all three by taking Kentucky NAACP a step back in advancing health equity for its members, likely worsening some Kentucky NAACP members' distrust of the medical system, and discouraging anti-racism efforts.

I solemnly swear and affirm under the penalties of perjury that the foregoing is true and correct based on my personal knowledge.

/s/Marcus Ray  
Declarant's Signature

5/11/2023  
Date

Marcus Ray  
Declarant's Printed Name